



1950 University Avenue, 4th Floor
 East Palo Alto, CA 94303
www.howrey.com

Henry C. Su

January 4, 2008

650.798.3528
 650.798.3600
suh@howrey.com

BY ELECTRONIC MAIL

Annette L. Hurst, Esq.
annette.hurst@hellerehrman.com
 Heller Ehrman LLP
 333 Bush Street
 San Francisco, CA 94104-2878

Martha Corcoran Luemers, Esq.
luemers.martha@dorsey.com
 Dorsey & Whitney LLP
 1717 Embarcadero Road
 Palo Alto, CA 94303

Re: GYM-Mark, Inc. v. Children's Apparel Network, Ltd.,
Case No. 5:07-cv-03523-JW

Dear Counsel:

Happy New Year. I hope you had a safe and restful holiday period. As you know, I have been appointed by the Court to serve as the mediator in this case under the Northern District's Mediation program. Please be sure to review carefully ADR L.R. 6 which governs the Mediation program.

Pursuant to ADR L.R. 6-6, I would like to conduct a phone conference with all counsel before the formal mediation to discuss the following:

- ▶ the procedures to be followed;
- ▶ the nature of the case;
- ▶ appropriate dates for the mediation and anticipated length of the session;
- ▶ the parties who must be present under ADR L.R. 6-9 and the parties who need to be present to have a productive mediation session;
- ▶ ideas to improve the effectiveness of the mediation session and/or matters that could pose impediments;
- ▶ requirements for your written mediation statements;
- ▶ any questions you might have about my background and experience and how I normally conduct mediations; and
- ▶ any questions you might have about the mediation program.

I anticipate that the telephone conference will last approximately one-half hour. Please reply by email to let me know your availability for this conference over the next five working days. Before the telephone conference, it would be a good idea to check with your clients (and any insurers, if applicable) regarding available dates for conducting the mediation. I understand

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that the Stipulation and Order Selecting ADR Process has currently set a February 7, 2008 deadline for completing the mediation.

My conflicts check did not reveal any actual or potential conflicts of interest under 28 U.S.C. § 455(a) and (b), and I am not aware of any other circumstances that would compromise my impartiality or the appearance of impartiality.

I look forward to assisting you on this case.

Sincerely yours,



Henry C. Su

HCS:

cc: Clerk's Office -- ADR Unit